1 EDMUND G. BROWN JR., Attorney General of the State of California 2 GREGORY J. SALUTE Supervising Deputy Attorney General KEVIN J. RIGLEY, State Bar No. 131800 Deputy Attorney General 300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 Telephone: (213) 620-2558 Facsimile: (213) 897-2804  Attorneys for Complainant	
Supervising Deputy Attorney General KEVIN J. RIGLEY, State Bar No. 131800 Deputy Attorney General 300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 Telephone: (213) 620-2558 Facsimile: (213) 897-2804	
Deputy Attorney General 300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 Telephone: (213) 620-2558 Facsimile: (213) 897-2804	
Los Angeles, CA 90013 Telephone: (213) 620-2558 Facsimile: (213) 897-2804	
5 Telephone: (213) 620-2558 Facsimile: (213) 897-2804	
6	
7	
8	
BEFORE THE	
BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
11	
12 In the Matter of the Accusation Against: Case No. 2009 - 344	
13 SUDA TANGSERMWONGSE	
800 Lexington Avenue A C C U S A T I O N Redlands, CA 92374	
Registered Nurse License No. 376671	
Respondent.	•
17	
Complainant alleges:	
19 PARTIES	
20 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accu	sation
solely in her official capacity as the Executive Officer of the Board of Registered Nursi	ng
22 ("Board"), Department of Consumer Affairs.	
2. On or about August 31, 1984, the Board issued Registered Nurse	License
Number 376671 to Suda Tangsermwongse ("Respondent"). Respondent's registered nu	ırse
25 license was in full force and effect at all times relevant to the charges brought herein an	d will
expire on October 31, 2009, unless renewed.	
27 ///	

## STATUTORY AND REGULATORY PROVISIONS

- 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.
  - Code section 2761 states, in pertinent part: 5.

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct, which includes, but is not limited to, the following:
- (1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions . . .
  - California Code of Regulations, title 16, section ("Regulation") 1442 6.

As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life.

7. Regulation 1443 states:

As used in Section 2761 of the code, "incompetence" means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5.

# **COST RECOVERY**

Code section 125.3 provides, in pertinent part, that the Board may request 8. the administrative law judge to direct a licentiate found to have committed a violation or

1

2

3

4

- 10
- 11
- 12
- 13
- 14 15
- 16
- 17

states:

- 18
- 19 20
- 21
- 22 23
- 24
- 25
- 26 27

violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

#### FIRST CAUSE FOR DISCIPLINE

## (Gross Negligence)

- 9. At all times herein mentioned, Respondent was employed as a labor and delivery nurse at Redlands Community Hospital, Redlands, California (hereinafter "hospital").
- 10. On or about January 22, 2006, a 17 year old female patient was admitted to the Labor and Delivery Unit at the hospital for onset of labor at 39 weeks gestation.
- 11. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a)(1), on the grounds of unprofessional conduct, in that on or about January 23, 2006, while on duty as the charge nurse in the Labor and Delivery Unit, Respondent was guilty of gross negligence within the meaning of Regulation 1442, as follows:
- a. Respondent failed to identify the patient's uterine hyperstimulation in a timely manner, and allowed the contractions to remain every 1 to 1½ minutes apart long before giving the patient Terbutaline to space the contractions apart.
- b. Respondent failed to ensure a continuous tracing of the fetal heart rate, preventing Respondent from appreciating the severity of the late decelerations and fetal distress.
- c. Respondent failed to document fetal heart tones every 5 minutes during the second stage of labor (when the patient was completely dilated) per the hospital policy's on Fetal Heart Rate Assessment.
- d. Respondent failed to identify and appropriately document fetal intolerance to labor.
- e. Respondent failed to notify the physician of the non-reassuring fetal heart rate pattern, including late decelerations.

<sup>1.</sup> Hyperstimulation of the uterus occurs when the uterine contractions are closer than every 2 minutes apart. Contractions every 2 minutes apart allow the uterus and fetus to rest between contractions and usually prevent distress or hyperstimulation, which can affect the uterus, placental integrity, and fetal well-being.

- f. Respondent failed to initiate the chain of command if the physician was not responding appropriately to a report of non-reassuring fetal heart rate pattern.<sup>2</sup>
- g. Respondent failed to summon help when she was having trouble with the fetal heart rate tracing and the internal scalp electrode.
- h. Respondent failed to accurately describe to her supervisors the events which took place on the day of the incident, including when the physician was present in the patient's room during the second stage of labor (Respondent told management that the physician was in the room for 2 hours prior to the infant's birth when, in fact, the physician was not present the entire time. Respondent subsequently changed her story and stated that the physician was in the room only occasionally).
- i. Respondent failed to ensure the safety of the patient while assigned as the charge nurse on the unit.
- j. Respondent failed to notify management that the unit was understaffed during her shift. 3/

#### SECOND CAUSE FOR DISCIPLINE

## (Incompetence)

- 12. Complainant incorporates by reference as though fully set forth herein the allegations contained in paragraphs 9 and 10 above.
- 13. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a)(1), on the grounds of unprofessional conduct, in that on or about January 23, 2006, while on duty as the charge nurse in the Labor and Delivery Unit at the hospital,

<sup>2.</sup> Respondent claims that the physician was at the patient's bedside at various times during the second stage of labor. If this was, in fact, the case, Respondent should have informed the physician of the fetal monitor strip and asked him if they needed to perform a caesarean section. If the physician did not respond appropriately to Respondent, she should have gone to the house supervisor, manager, or director of the department or the director of obstetrics.

<sup>3.</sup> Respondent claims that the unit was understaffed on the day of the incident; however, there were no reports to management or documentation of any unsafe conditions.

1	Respondent's conduct and unacceptable levels of performance amounted to incompetence within
2	the meaning of Regulation 1443, as set forth in paragraph 11 above.
3	THIRD CAUSE FOR DISCIPLINE
4	(Unprofessional Conduct)
5	14. Complainant incorporates by reference as though fully set forth herein the
6	allegations contained in paragraphs 9 and 10 above.
7	15. Respondent is subject to disciplinary action pursuant to Code section
8	2761, subdivision (a), in that on or about January 23, 2006, while on duty as the charge nurse in
9	the Labor and Delivery Unit at the hospital, Respondent committed acts constituting
10	unprofessional conduct, as set forth in paragraph 11 above.
11	<u>PRAYER</u>
12	WHEREFORE, Complainant requests that a hearing be held on the matters herein
13	alleged, and that following the hearing, the Board of Registered Nursing issue a decision:
14	1. Revoking or suspending Registered Nurse License Number 376671, issued
15	to Suda Tangsermwongse;
16	2. Ordering Suda Tangsermwongse to pay the Board of Registered Nursing
17	the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
18	Professions Code section 125.3;
19	3. Taking such other and further action as deemed necessary and proper.
20	
21	DATED: 4/14/09
22	
23	Rie Don Ti
24	RUTH ANN TERRY, M.P.H., R.N. Executive Officer
25	Board of Registered Nursing Department of Consumer Affairs
26	State of California Complainant
27	Сотрыниц
28	